

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

BRIAN A. MAUS,

Petitioner,

v.

Case No. 14-C-1393

WARDEN GARY BOUGHTON,

Respondent.

ORDER DENYING MOTION FOR TRANSFER

Brian Maus filed a Petition for Writ of Habeas Corpus pursuant to 28 U.S.C. § 2254 on November 3, 2014. The case was assigned to Judge Charles N. Clevert, who entered an order and judgment denying the petition on February 21, 2017. Maus appealed, and the case is currently pending before the United States Court of Appeals for the Seventh Circuit. Petitioner Maus has now filed a motion to transfer his custody from Gary Boughton, at the Wisconsin Secure Program Facility (WSPF) in Boscobel to the warden at the Jackson Correctional Institution, Kettle Moraine Correctional Institution, or Prairie du Chein Correctional Institution. In support of his request, Maus argues that his classification warrants a prison with a lower security classification.

Maus' motion is denied. A federal district court has no authority to transfer state prisoners among the various correctional facilities operated by the state. The Federal Rules of Appellate Procedure limit the right of a state custodian of a prisoner to transfer custody of the prisoner while a federal habeas corpus proceeding is pending. Fed. R. App. P. 23. But except for this limitation, the rules give no power or authority to a district court to transfer a prisoner on the prisoner's own request. Accordingly, Maus' motion, Dkt. [69], is denied.

SO ORDERED this 9th day of October, 2019.

s/ William C. Griesbach
William C. Griesbach, Chief Judge
United States District Court